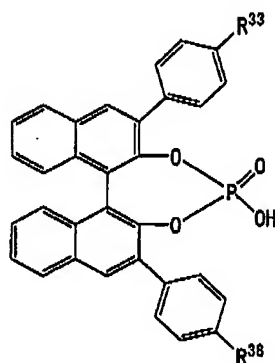


REMARKS

Claims 1-7 and 10-22 are all the claims pending in the application. Claims 13-14 and 20-22 were examined and rejected. Claims 1-7 and 10-12 and 15-19 have been withdrawn from consideration.

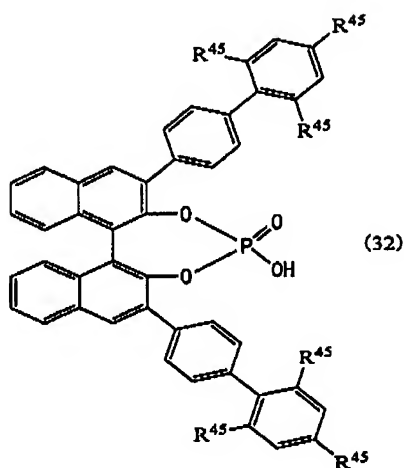
In the present Amendment, claims 13-14 and 20-22 have been amended to further clearly point out the claimed subject matter.

Independent claim 13 has been amended to recite a phosphoric acid derivative that is represented by the following formula, wherein R^{33} and R^{38} each independently represents a phenyl group, an α -naphthyl group or a β -naphthyl group. Section 112 support for this amendment may be found, for example, at page 96, first paragraph, of the specification.



Dependent claim 14 has been amended consistent with the amendment to claim 13.

Claim 20 has been amended to recite a phosphoric acid derivative that is represented by the following formula (32), wherein R^{45} represents an alkyl group. Section 112 support for this amendment may be found, for example, at page 101, first paragraph, of the specification.



Dependent claim 21 has been amended consistent with the amendment to claim 20.

Independent claim 22 has been amended to recite a method of using the optically active phosphoric acid derivative represented by formula (11) or formula (31) as a catalyst. This amendment is supported by the disclosure throughout out the specification and claim 22 as originally filed.

No new matter has been added, and entry of the Amendment is respectfully requested.

Claims 13, 14, and 22 are rejected under 35 U.S.C. 102(b) as allegedly being anticipated by Inanaga et al. (EP 1134209 A1; "Inanaga").

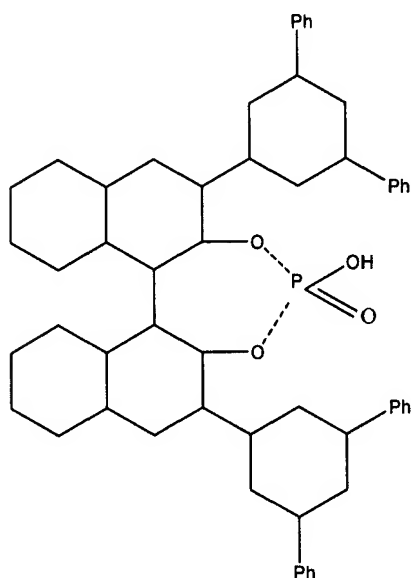
Claims 20 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Inanaga et al. (EP 1134209 A1).

Applicants respectfully traverse the above rejections.

Claims 13, 20 and 22 are independent claims.

The Examiner asserts that Inanaga teaches optically active binaphthol derivatives and optically active phosphate derivatives useful as intermediates for the preparation of catalysts. In particular, Inanga is said to disclose at paragraph [0004] the asymmetry-identifying element of

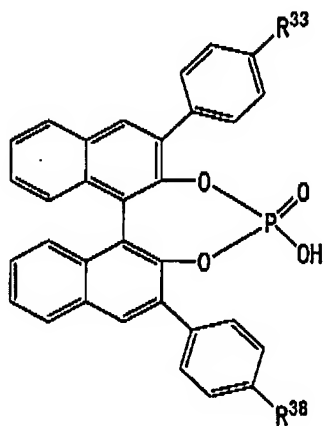
3,3'-(3,5-diphenyl phenyl)-1,1'-binaphthyl- 2,2'-diyl phosphoric acid having the structure below.



Applicants submit that the above rejections should be withdrawn because Inanaga does not disclose or render obvious the presently claimed phosphoric acid derivatives.

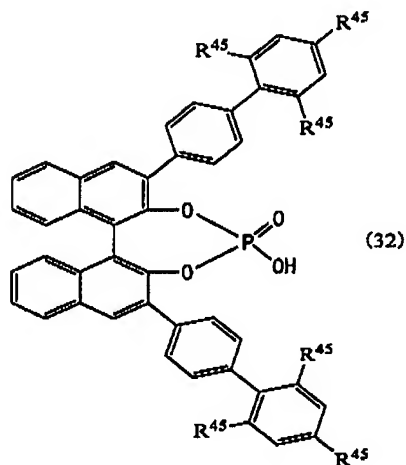
Claim 13

As noted, claim 13, as amended, recites a phosphoric acid derivative that is represented by the following formula, wherein R^{33} and R^{38} each independently represents a phenyl group, an α -naphthyl group or a β -naphthyl group.



Claim 20

Claim 20, as amended, recites a phosphoric acid derivative that is represented by the following formula (32), wherein R⁴⁵ represents an alkyl group. Section 112 support for this amendment may be found, for example, at page 101, first paragraph, of the specification.



The phosphoric acids of Inanaga do not meet the requirements of the presently claimed phosphoric acid derivative as recited in claim 13 and claim 20.

Claim 22

The Examiner cited paragraphs [0001]-[0004] of Inanaga does not describe that 3,3'-(3,5-diphenyl phenyl)-1,1'-binaphthyl- 2,2'-diyl phosphoric acid can be used as an asymmetric synthesis catalyst. Inanaga only discloses that optically-active binaphthol derivatives and optically active phosphorus derivatives are useful as an intermediate and asymmetry identifying element for preparing an asymmetric synthesis catalyst.

Independent claim 22 has been amended to direct to a method of using the optically active phosphoric acid derivative represented by formula (11) or formula (31) as a catalyst.

The presently claimed method of using the optically active phosphoric acid derivative represented by formula (11) or formula (31) as a catalyst is patentable over Inanaga. MPEP 2112.02 states that the discovery of a new use for an old structure based on unknown properties of the structure might be patentable to the discoverer as a process of using.

Conclusion

In view of the above, the present claims are patentable over Inanaga. Reconsideration and withdrawal of the §102 and §103(a) rejections of claims 13-14 and 20-22 based on Inanaga are respectfully requested.

Allowance is respectfully requested. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

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